

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

MICHAEL BEST,

ANSWER

Plaintiff,

CV 04 8213 (LAK)(THK)

-against-

CORRECTIONAL OFFICER BRIDGEWATER,  
WARDEN RICHARD PALMER JR., CORRECTIONAL  
OFFICER RODRIGUEZ,

JURY TRIAL DEMANDED

Defendants.

----- x

Defendant Richard Palmer, Jr., by his attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "I" of the complaint and all subparts thereto.
2. Denies the allegations set forth in paragraph "II" of the complaint and all subparts thereto, except admit there is a grievance procedure in place at O.B.C.C. on Riker's Island.
3. Denies the allegations set forth in paragraph "III" of the complaint and all subparts thereto, except admit that plaintiff purports to proceed against those individuals as set forth therein.
4. Denies the allegations set forth in paragraph "IV" of the complaint and all subparts thereto, except admit that plaintiff was arrested, charged, and tried for assaulting a corrections officer, and that the jury returned a "not guilty" verdict.

5. Denies the allegations set forth in paragraph "IV-A" of the complaint and all subparts thereto.

6. Denies that plaintiff is entitled to any of the relief requested in paragraph "V" of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

7. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

8. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

9. Any injury alleged to have been sustained resulted, in whole or in part, from plaintiff's culpable or negligent conduct and was not the proximate result of any act of the defendant.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

10. Plaintiff's state law claims, if any, are barred in part by the applicable statute of limitations.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

11. Defendant has not violated any clearly established constitutional or state right of which a reasonable person would have knowledge and therefore is protected by qualified immunity.

**AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE:**

12. Plaintiff provoked any incident.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

13. Plaintiff failed to comply with General Municipal Law §50.

**WHEREFORE**, defendant respectfully requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
June 14, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendant  
Correction Officer Bridgewater and Richard  
Palmer, Jr.  
100 Church Street, Room 3-155  
New York, New York 10007  
(212) 788-0987

By: /S/  
Brian G. Maxey (BM 0451)  
Special Federal Litigation Division

To: Mr. Michael Best  
Plaintiff, Pro Se  
333 E. 176 Street, Apt. #5A  
Bronx, New York 10457

## DECLARATION OF SERVICE

Brian G. Maxey, Esq., declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct: On June 14, 2007, I served the annexed “ANSWER” upon Michael Best, plaintiff *pro se*, by depositing a copy of same, enclosed in a first class, postpaid properly addressed wrapper in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to plaintiff at:

Mr. Michael Best  
Plaintiff, Pro Se  
333 E. 176 Street, Apt. #5A  
Bronx, New York 10457

being the address designated by plaintiff for that purpose.

Dated: New York, New York  
June 14, 2007

/S/ \_\_\_\_\_  
BRIAN G. MAXEY (BM 0451)  
SPECIAL FEDERAL LITIGATION DIVISION

CV 04 8213 (LAK)(THK)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL BEST,

Plaintiff,

-against-

CORRECTIONAL OFFICER BRIDGEWATER, WARDEN  
RICHARD PALMER JR., CORRECTIONAL OFFICER  
RODRIGUEZ,

Defendants.

**ANSWER**

*MICHAEL A. CARDODOZO*  
*Corporation Counsel of the City of New York*  
*Attorney for Defendant*  
*Correction Officer Bridgewater*  
*100 Church Street, 3-156*  
*New York, N.Y. 10007*

*Of Counsel: Brian G. Maxey*  
*Tel: (212) 788-0987*  
*NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2007....*

*..... Esq.*

*Attorney for.....*